App. F. IX-4

Previous References

1938.
( )
Legis

File No. 40
Serial Nos.

Later References.

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for December 1938

SUBJECT.

Re Auxiliary Force Act

A brief Note on the various questions raised by Sir Charles Todhunter in his letter of 10th November 1937.

---

(1) Provisions of the law and other binding Regulations on the constitution and duties of the A.F.(I) units.

The Auxiliary Force Act XLI extends to the whole of British Army Act will be applicable to t when attached to or otherwise ac of the Regular Force or when cal order under Section 18 of the Au Force (India) Act to assist the Force. (Sec.21).

By the Army Act of 1911 the Articles of War have been repeal

(2) Changes likely to take place in respect thereof under Federation.

Under Section 8 of the Gove India Act, the Executive authori Federation has power to raise in British India military and other forces on behalf of His Majesty and to the governance of His Majesty's Forces borne on the Indian establishment. The Forces should consis of either His Majesty's subjects or India State subjects or subjects of a territory adjacent to India. From this it seems that the provisions of the A.F.I. Act are not affected by the Government of India Act

(4) Whether a minor change will occur under Retrocession.

It is not likely that any minor change will occur after Retrocession. The Auxiliary Force (India) Act apply only to European British subject It applies also to

(1) British subject of European descent in the male line;

(2) a person not being a British subject but who satisfies the conditions prescribed for enrolment of persons of that class.

European British subjects as wel British subjects of European descent live in retroceded area though livin the Mysore State can still enlist ther under Clause (d), section 3 of the Au Force (India) Act. Persons of this c by their residence in the State, do nc their nationality as European British subjects.

(6) What restrictions the Government of India impose upon the creation of units of State Forces.

So far as Mysore State is concern in the matter of creation of units of State Forces, Article 9 of the Treaty seer to apply.

The Military Force employed in the Mysore State for maintenance of internal order and for His Highness the Maharaja's personal dignity shall not exceed the stre which the Governor-General-in-Council (now the Crown Representative) may fix from time to time. Even in the matter of enlist-ment, organization etc. the directi

the Governor-General-in-Council (now the Crown Representative) has to be complied with. If any necessity is made out for the creation of extra units, then the Governor-General-in-Council (now the Crown Representative) may permit the increase of State Forces. Then automatically he will allow us the importing of arms for the new forces.

(7) Law governing the formation of Units of the State Army.

In Mysore we have no Army Act as it is in British India controlling the qualification for enrolment of men to the vario branches of the Military Force. The Military Regulation 3 of 1899 deals only with the discipline applicable to Imperial Service Cavalry and Transport Corps. Unless the Crown Representative agrees to th increase of units in the State under Artic 9 of the Treaty, there cannot be any extension of State Militia. Even after Retrocession we cannot raise an A.F.(I) unit with the persons referred to in Section 3 of the Auxiliary Force (India) Act. Every European British subject and every subject of European descent in the male line and every person not being a British subject but possessing the conditions prescribed for persons of that class can be enlisted in A.F.(I). This means that persons who answer the above description but living in retroceded area can be enlisted in A.F.(I) They cannot be available for enrolment in

Mysore and unless we have a law, we cannot enlist them even if they do not enlist themselves in A.F.(I).

Even for the formation of a University Unit, Article 9 of the Treaty seems to apply. An Act similar to the Indian Territorial Force Act has to be enacted in Mysore to create a University Corps.

themselves in any.(1).

Even for the formation of a "Federal"
Unit, article 3 of the Treaty seems to
[illegible] an act similar to the Italian Ter-
ritorial Waters Act how to be enacted in

Enclosure no C.751 Dated 10.11.1937

Very Urgent.

1) The various Restrictions that the Government
are proposing upon the creation of Units of
State Forces.

2) — Law governing the
formation of Units of
the State Army.

Information on
these points in connection
with D. No. 2868/P
asked to be furnished
by the Military
Section (G. M. Branch)
dealt with reference to the provisions
12-11. of the Mysore Militia Regn. or
any other relevant Enactment of
Mysore or British India.

12-11.

A printed Collection has
been given to the Legal
Dept. Branch in person
day. This may now be
taken

The Confl Clerk if any
referring to Treaty of Ex 1.1
Units at Kolan &
in the C.H.M.S.T.R. as
units of the Nyasa Army
only could be made
available for despatch
to M.C. H.Q.

On an informal
enquiry at the Dominions
Office I was informed
the Consular Branch
was entirely by this col-
lection

C.B.

W.O. Mint
10.9.

a P.P. Collection of 1930.
filed in C.B.

files countermarked
may also be examined

Gen. Branch to
forward to Secretary
any files on the
subject if avail-
able at the Public Record
Office. The Foreign Office
Miscellaneous files
should also be

Rentals Note re D No. 162e

37

from the Records

Lists & Title Readings of the Mtg. Secn.

Note re D No. 1620/T/37

AFI units of KGF & CMS to be treated as units of Mysore Army

If Offg DC to Fd Chas Todhunter quote above subject & 7.9.37 and previous letter from him can be made available for reference, the papers may kindly be sent to the Private Sy.

Supdt Dewan's Office will comply

17/9/37

DEWAN'S OFFICE
21 SEPT. 1937
No. M 389/2

17.9.37

For reference & kind return

Supdt Prohibn BR W/C 17/9

usual d orders

Put up when the Dewan's file

Changes that are
likely to take place
under Federation
respect of the provi-
sions of Law Re-
lating to Constitu-
tion and duties
of the Auxiliary
Force units

Mr. M. K. Varadaraja
will be requested for
information and a note
on the above, if applic

Mul.
12.11.

12.11.

Mr. M. K. V. with Compliments
12/11/37

Papers throwing light
on the present position of the Auxiliary
Forces in Mysore may kindly be made
available to me

M.K.V.
16/11

Supdt, Protection Branch

Vasantha Mah

Mysore,

8th September 1937.

My dear Mirza, W. 294

Many thanks for your D.O. No. 164, dated 7th September 1937, on th subject of the possibility of treating the A.F.(I) units at Kolar and in the C and M station as units of the Mysore Army.

I hope you won't think me unduly persistent if I ask to l to see the previous correspondence. I do so because it seem possible that the change of conditions that has come about in few months may be found fully to justify the raising of the q again during your approaching visit to Delhi.

Under a bureaucratic regime the fact that a proposal cou brought within the four corners of the law was sufficient to Under present conditions, for better for worse, the law has l sanctity, and it has become one of the minor objections to a to say that it would involve an amendment of an Act.

What I should hope to discover in the correspondence is former proposal was turned down for a technical reason, but that you could put forward the present one on grounds of principle which would justify the removal of the technical objection, by legislation, if necessary.

Yours sincerely,

K Hodkinson

Employment of Indian Force for internal security in the State

General and Revenue Secretariat | File No. of 1937. [App. F. III—2

Serial No.

1) Submitted the following collection that seem to have a bearing on the subject under discussion are put up. Now this may be sent to the Dewan's office ~~Branch~~ to (instruct) whether these are the files that are required with reference to the D.O. No. 1 of 7-9-37 referred to by the Priv Secretary to H.H. the Maharaja

1) Legis 27-07-1172.
2) " " " 3-5.
3) Police 219-12-1172.
4) " 66-13-1-5.
5) Police 68-18-1173
6) 148-14-1.1A.2173.
7) P.P. 72-20-1-4.
8) P.P 111-21-1to5
9) P.P. 57-25-1.
10) Military 224-26-1-6.
11) Confidential 68-30-31 PP 105-30-165
12) P.P. 105-30-647.
13) Pol 36-35-20-29.
~~14) PP. 27-36 this Papers~~

employment of Indian Auxiliary force
medical services in the State. 1620/P

General and Revenue

File No. of 193

14) C. B. 159 - 29 - 1, 2, 3.

15) Police 125 - 08 - 1 - 17

16) C. B. 51 - 21 (22 - 26) 2/30.

15-7-42) The Dewan's D.O. letter dated 6th instant refers to the Dewan's D.O. of September 3, to the Dewan's office may kindly see that C.M.'s D. send or advise the Branch as to the despatch of the relevant C.M.'s which may kindly be indented & thence, obtain what is required to be sent from the Supply Dept.

Treating A F (I) units as of Mysore Army

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

4) The draft of the D.O is not available here. The file seems to have been sent to Delhi Camp. As the connected file will be sent to Sir Charles Todhunter after receiving that draft. Some old files on the subject have been picked up & kept below.

Chief Secy)

9) For perusal. 16-9

1st member)

17.9.37

12) JPN 21/9 MK 21/9

23/9

Submitted for orders as to the file to be sent to Sir Charles Todhunter. His letter to the Dewan & the Dewan's reply obtained from the Dewan's office are in the file

Regd
23-9-37

12) The file available in this Branch ~~does~~ relate to the use of A.F to help the civil power in Mysore. There do not appear to be any files on the question of treating A.F as part of Mysore Army. The statement kept below shows the files that are put up.

GOVT. OF MYSORE. 16 SEP 1937 MEMBER 17 SEP 1937 1319

WD 0284—GPB—30,000—13-8-37

1620

Treating AF (1) units as Units of Mysore Army

File No | of 193 | General and Revenue Secretariat

DEWAN'S OFFICE
No. 2224

CHIEF SECRETARY
24 SEP 193
GOVT. OF MYSORE.

13) Chief Secy)

The available files will be sent 24-9
to Sir Charles Todhunter and he will be
requested to intimate if there are any other
papers he has in view

1st Member
Dewan)

14) 27-9

15) 27-9-37

16 | 6
27/9.

2648/P/37

1620/P/37 Treating W.F.(1) cuttings as Units of Mysore Army

General and Revenue Secretariat | P. File No. | of 193 | [App. F. III—2

Serial No.

20) Sealed packet containing C.C. no. 53- with Collections P.P. 124-36 ~~and~~ 1674 and file PP30-35-3 are sent herewith for being laid before by the C.B. and the Protection Branch file being returned with acknowledgment

ll 10.11. CB

10.11.37.

21) I have put up a brief note at ante answering the points raised by Sir Charles Todhunter in his letter

(chief Secy) log

22) The note may be sent for the information of Sir Charles Todhunter

MK 23.2.38

23) Please put up a reply letter log 23.2

24) Submit with a draft D.O. letter to the Private Secretary to H.H. the Maharaja.

Chief 24.2.38. (chief Secy) log 26.2

MK 25/2

25 attd

MK 25/2

25 issue log 25.2

(Issued) No. P. 1620 dt 25-2-38

From

The Private Secretary to H.H.

WD 0284—GPB—30,000—13-8-37

No. G. 75/3-38 dt 5.3.38

Regrets for a copy of the Army Act with latest amendments.

Laboratory for A.F.I. (9) issues of the State militia. 5195

File No. G 3 of 1937

General and Revenue Secretariat

Sub. As a Separate Book comprising the Army Act is not available, if approved, the Librarian will be requested to place an order for 2 copies of the Indian Army Act with the latest amendments.

Yes. Immediately

5962

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

Subd. It is ascertained that a copy of the Army Act is available in the Chief Commissioner's office. A draft letter is put up requesting him to obtain the book. DS issued
13.4. 13.4

Issued no. P S 709 dt 13.4.38.

From

The C Commr. Dr-1 Bangalore

No. C.1-1356/37-38 dt 13.4.38

Forward a copy of "Manual of Military Law" which contains the Army Act

To

Private Secretary to H.H. the Maharaja

Do. No. P S 733 dt 14-4-38.

Forwards the book, which will oblige on its return by the post as early as possible if not required. If approved, the Librarian will be requested to place an order and get immediately copies of "Manual of Indian Military Law" - Cabinet Edn with amdt. Correction slips upto date for the
14.4. Scott Library

DY

The Scott Library has this day rec'd. two copies of "The Indian Army Act 1911" Corrected upto 15.10.1937. If this is the one required a separate requisition may kindly be sent. The copy is required for being sent to Sir Charles Todhunter. It may be noted in the Library register & the book perhaps with them.

16.6.38

with book no. L. 3369.

40

Subm. with a draft D.O. letter to Private Secy. to H.H. the Maharaja

I. I

Issued

16.6.38

Issued No. P. 5786 dt. 18.6.38.

Subm. with a draft Memorandum to the Private Secretary to H.H. the Maharaja

3.5.38.

Issued

From Private Secretary to H.H. the Maharaja's

No. G. 75/37-38 dt. 29.4.38

Returning the Kannada Indian Military Law and points out the conditions under which the H.J.C. units may become units of the Mysore army and a Province

Serial No.

to examine the legal aspect of the case and to let him know whether the present form of work conditions would meet all the legal difficulties.

S/W. The book will be returned to the Chief Commandant. Draft letter put up.

U/S. As the book "Manual of Indian Military Law" is required in this connection, the Librarian will be requested to place an order and get the book immediately.

It is for approval.

Issued no. P. 6191 dt 5.5.38.

Librarian. for taking urgent action and return of this file for the case being worked up

5.5.38

Extract taken — File returned to Br.

6.5.38

From.

The Chief Commandant
Bangalore

No. 11-1356/37-38 L, 6-5-38

Acknowledges the receipt of the book "Manual of Indian Military Law"

for perusal.

U/S. 9.5.38

6.5.38

WD 0284—GPB—30,000—13-8-37

Subst. the book Memoirs of Women Living
Law" is put up.
Mute.

Serial No.

Submitted

The point for orders is whether the fulfilment of the Conditions set out in the letter of the Private Secretary to His Highness to the Under-Secretary G 75/37-38 dated 29.4.38 would meet all the legal difficulties involved.

The four Conditions mentioned in that letter are

The Consent of the Crown Representative under Article 9 of the Treaty to an increase in the strength of the Mysore Army.

The disbandment of the A.F.(I) units, or the discharge of such of the men as are eligible for the same.

Passing legislation similar to the Indian Territorial Force Act with suitable modifications.

Creation of suitable units of the Mysore Territorial Force

The Consent of the Crown Representative under Article 9 of the Treaty to an increase in the strength of the Mysore Army (the 1st Cond:n in the letter) seems to be absolutely necessary before any further action can be taken in the matter.

The disbandment of the present A.F.(I) units (the 2nd Cond:n in the letter) can be done only by the Governor-General in Council under S.29 of the Auxiliary Force Act 1920 which lays down that the Governor-General in Council may Constitute any Corps or unit and may disband any Corps or unit Constituted under the Act.

Discharge of Such of the Members as are eligible for the

ame will only be by efflux of time (S 87) and if any
rps or unit is disbanded it will become unnecessary.

Legislation in British India has been in
e form of two Acts, the Indian Territorial Force Act
920 applicable to persons other than European British
ubjects and the Auxiliary Force Act 1920 applicable
European British Subjects and others who may satisfy
e Conditions laid down for eligibility.

In Mysore, if the Consent of the Crown
epresentative is obtained under Article 9 of the Treaty,
there may not be any difficulty in passing an Act
Corresponding to the Indian Territorial Force Act. The
Constitution of a University Training Corps may also
be provided for therein as in British India.

But the suggestion that a modificati
will have to be effected to include European British
Subjects also may not be free from difficulty. Any
Act to be passed here in this Connection will have to
necessarily make Provision for the punishment of offence
under the Act and for disciplinary action against
breaches of orders, rules, and regulations that may
have to be passed thereunder. Some of these offence
will have to be tried by the Criminal Law. S 22,
23, 25 and 27 of the Auxiliary Force Act 1920
Contemplate such action by the Criminal Courts.
An Act of our Government cannot confer on our
Courts such Plenary Criminal jurisdiction over

2206 p 38

Serial No.

European British Subjects as Article 16 of the Treaty Provides that plenary Criminal Jurisdiction can be exercised by the Government over European British Subjects only to the extent delegated by the Governor General in Council. The Consent of an European British Subject to subject himself to the Jurisdiction of our Courts that may be deemed to be implied by his Voluntary act of joining our units cannot be Considered in law valid or good so as to give our Courts Jurisdiction over him.

Two alternative remedies seem possible: either the appointment of officers by the Governor General in Council for this purpose similar to the present system of appointment of Justices of the Peace, or the Conferment on some of our Courts of Jurisdiction over European British Subjects at least for the limited Purpose under the Act.

The former may be in the form of empowering the Justices of the Peace themselves to try such offences.

Typed 10/10/38

Yajnik
Typist
puts up a note as above & a letter to Sir
C.D. enclosing the note 21/11
& expressing regret for the delay in replying to his letter
21/11
a note and a letter on the above lines is submitted.

23.11.38

WD 0544—GPB—30,000—2-9-83

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, ~~29th Septr.~~ 1937.

No. P 1846/Secr 12 files

From

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Private Secretary to His Highness the Maharaja of Mysore.

Subj: "Treating A.H(I) units as Mys Army units"

Sir,

With reference to the correspondence ending with your letter No. C. 211 dated 8th September 1937 to the Dewan, I am directed to send herewith twelve Secretariat files as per list enclosed and to request you to be so good as to intimate if there are any other references you have in view.

I have the honor to be,
Sir,
Your most obedient servant

29.9

for Chief Secretary to Government.

TRM.2

Appendix F G—11

SUBJECT .....

.....

.....

Diary No. of letter replied to 1620/P

General and Revenue Secretariat

( )

the *193*

Date of issue 29-9-37

Signed by Dr. D-S-R-N

List not to be typed

List of enclosures .....

file sent to D-O today

Copied by .....

Examined by .....

29/9/37

Section

File No.

Serial No.

No. P1846/Revenue adoption & allt. files

To W. Pr. Secy.
H.H. the Maharaja
Mysore

Sir

With reference to the correspondence ending with your letter No. C 211 dt. 8/9/37 to the Diwan, I am directed to send herewith twelve Sects. files as per list enclosed and to request you to be so good as to intimate if there are any other references you have in view.

I have etc
to
29.9
for Chief Secy

File No. with serials.	Subject-matter.
Legis.27/07 Sls. 1 & 2.	Status of volunteers in Native States.
Legis.27/07 Sls.3.4.5.	Status of volunteer forces in Native States.
Police 219/12 Sls. 1 & 2.	Employment of British volunteers in cases of breach of Peace in the Kolar Gold Fields.
Police 66/1913 Sls. 1 to 5.	Employment of the volunteer force in the Kolar Gold Fields on occasions of breaches of peace.
Police 145/1914 Sls.1, 1a, 2 and 3.	Employment of the volunteer force in the Kolar Gold Fields on occasions of breaches of peace.
Palace & Political No.72/1920 Sls.1 to 4.	Employment of Indian Defence Force Units for the maintenance of public peace in the State.
-do- 57/1925 Serial No.1.	Employment of the Kolar Gold Fields Battalion of the auxiliary force by the Mysore Government in aid of civil power.
Confdl.Branch. File No.159/29 Sl.23.	Residency correspondence regarding K.G.F. strike.
C.B.Collection No.68/30 P.P.105of 1930 sls. 1 to 5.	Question of amending the Mysore Criminal Procedure Code so as to protect the K.G.F.Battalion as a body, should they be called out in aid of the Civil Power.
Military 224/26 sls. 1 to 6.	Draft letter to the Residency on the subject of the Internal Security Scheme.
P.P. 105/30 sls. 6 and 7.	Application of the Indian Auxiliary Force Act of 1920 to Indian States.
P.W. 36-35 sls. Nos. 20-29.	Augmentation of the Provincial Reserve Police at Kolar Gold Fields and construction of Police Lines &c., for the Provincial Reserve Police at Kolar Gold Fields.

Collections that have been returned to Records

-35 vs 3.

4-36 " 1-4

7-36 " 1-14

1-21 " 22-26 & 50

5-07 " 1-17

P.P. III-21 " 1 to 5

Pol 68-18 " 1 to 3.

11.11.37

Now to collections Nos. written in file, on 24-2-38.

P.P. 72 & 20 ~~Pol. 36935~~ written in file. 24-2-38.

GENERAL AND [redacted]E SECRETARIAT

Protection Branch

Memo No P.....dated.....

Forwarded to the District Magistrate o

.....

for information.

By Order.

For Secretary to Government,
Law Department.

Mr. B. T. KESAVAIENGAR. B. A.,
Chief Secretary to Government.

GENERAL AND REVENUE SECRETARIAT.

Bangalore, Dated, 10th November 1937

Subject:- Treating A.F.(I) Units at Kolar as Units of Mysore Army.

I am desired to invite reference to letter No. P. 1846 dated 29th September 1937 from this office and to request you to be so good as to return Police collection No. Pol. 36-35, Sls. 20 to 29 dealing with augmentation of Police force at Kolar Gold Fields, if the same is no longer required by you, as it is wanted here for reference in another connection.

Draft"

To.

P. S. to H.H. the Maharaja's

Vasantha Mahal,

Mysore,

10th November 1937.

C.751

PP 43-37

Dear Mr. Kesavaiengar,

I am very sorry that the pressure of other work, including that connected with the Dasara, has prevented my sitting down earlier to digest the large collection of files which you were good enough to send me under cover of your letter No. P.1846, of the 29th September last, on the subject of the relations between the State and the local units of the Auxiliary Force (India).

I hope you will not consider me unduly persistent if I ask for still further information on the subject. The question at issue seems to be whether it is practicable for the State to embody the existing A.F.(I) units and to add new units of a similar character as part of a State militia. For this purpose it seems desirable to have a clear account (1) of the provisions of the law and other binding regulations on the constitution and duties of the A.F.(I) units as at present organised, (2) of any changes that are likely to take place in respect thereof under Federation, and (3) of the law governing the formation of units of the State army.

I am afraid the law on the subject is a matter I have never had occasion to study. I understand that the A.F.(I)s at present existing are governed by an Act of their own, and presumably also by the Army Act and the Articles of War, and I see from the file that they have certain duties assigned to them under the Internal Security Scheme, which have been cited as an obstacle to their utilisation by the State.

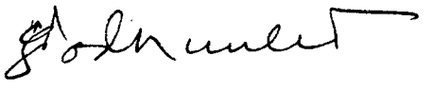
Again I am unaware whether the Government of India Act, the Instrument of Transfer or any of the documents connected there-

with contemplate any change in respect of these matters, but I do observe that Sir M.N. Krishna Rao, in a note dated 1st January 1931, definitely contemplated that there might be a change when Federation took place. It also seems possible that a minor change will occur under Retrocession. If, as I understand the matter, the present Act applies only to European British subjects in Indian States, then after Retrocession people who are not strictly covered by that term and who become Mysore State subjects will no longer be eligible to serve in the A.F.(I) units in which they are at present serving.

In the third place, I wonder what restrictions the Government of India imposes upon the creation of units of State forces. I presume that they exercise their control mainly through the fact that arms cannot be obtained except under their orders. In this connection I observe that the account of Bikaner in the Times of India Directory refers to "a Militia regiment 600 strong, the "raising of which is under consideration".

Should it be found possible to clear these various legal difficulties out of the way, then it seems possible that the formation of a State militia might not only afford a solution of the Kolar difficulty, but also facilitate a very useful extension of the State forces. Under such a plan the Mysore Government might constitute a militia and embody in it (1) the Kolar Gold Fields A.F.(I) unit, (2) the Bangalore A.F.(I) unit, if they became State subjects after Retrocession, and (3) a University unit and (4) such other units as it might from time to time be found possible to en-

Yours sincerely,



D.O. No. P.4920.
Encl. nil (4 sheets)

25th February 38

Subject:- Embodying A.F.(I) units as part of the State Militia.

With reference to your letter No.C.751 dated 10th November 1937 on the above subject, I enclose herewith a brief note on the various points raised in your letter under reference. The note was prepared by Mr.Sundararaja Rao, Under Secretary to Government who went carefully into the legal aspects of the question.

Appendix F 4—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue 25.2.38

Signed by Mr B.T.K.

Section

File No.

Serial No.

No. Pol(Pro)/Genl one (48 Sheets)

To

Sir Charles Todhunter
P.S. to H.H. the Maharaja

Subject: ~~Employing~~ Embodying A.F. (I) ~~Territorial Force~~ Units ~~as units of Mysore Army~~ as part of the State Militia

Dear

With Reference to your letter No. C.751 dt 10.11.37 on the above subject, I ~~am desired~~ enclose herewith a brief Note ~~answering~~ on the various points raised in your letter under Reference. The Note was prepared by Mr Sundaranga Rao I.C.S. & Govt Pro who went carefully into the legal aspects of the question.

Yours Sincerely

A brief Note on the various questions raised by
Sir Charles Todhunter in his letter
of 10th November 1937

(1) Provisions of the law and other binding Regulations on the constitution and duties of the A.F.(I) units.

The Auxiliary Force Act XLIX of 1920 extends to the whole of British India. The Army Act will be applicable to the force when attached to or otherwise acting as part of the Regular Force or when called out by order under Section 18 of the Auxiliary Force (India) Act to assist the Regular Force. (Sec.21).

By the Army Act of 1911 the Indian Articles of War have been repealed.

Under Section 8 of the Government of India Act, the Executive authority of the Federation has power to raise in British India military and other forces on behalf of His Majesty and to the governance of His Majesty's Forces borne on the Indian establishment. The Forces should consist of either His Majesty's subjects or Indian State subjects or subjects of a territory adjacent to India. From this it seems that the provisions of the A.F.I. Act are not affected by the Government of India Act.

(3) Whether the Government of India Act, the Instruments of Transfer will contemplate any change.

These do not contemplate any change.

(4) Whether a minor change will occur under Retrocession.

It is not likely that any minor change will occur after Retrocession. The Auxiliary Force (India) Act does not apply only to European British subjects. It applies also to

(1) British subjects of European descent in the male line;

(2) a person not being a British subject but who satisfies the conditions prescribed for enrolment of persons of that class.

(5) If the Act applies only to European British subjects in Indian States after Retrocession, whether they become eligible to serve in the A.F.(I) units.

European British subjects as well as British subjects of European descent that live in retroceded area though living in the Mysore State can still enlist themselves under Clause (d), section 3 of the Auxiliary Force (India) Act. Persons of this class, by their residence in the State, do not lose their nationality as European British subjects.

(6) What restrictions the Government of India impose upon the creation of units of State forces.

So far as Mysore State is concerned, in the matter of creation of units of State forces, Article 9 of the Treaty seems to apply.

The Military Force employed in the Mysore State for maintenance of internal order and for His Highness the Maharaja's personal dignity shall not exceed the strength which the Governor-General-in-Council (now the Crown Representative) may fix from time to time. Even in the matter of enlistment, organization, etc.,

the direction of the Governor-General-in Council (now the Crown Representative) has to be complied with. If any necessity is made out for the creation of extra units, then the Governor-General-in-Council (now the Crown Representative) may permit the increase of State Forces. Then automatically he will allow us the importing of arms for the new forces.

(7) Law governing the formation of Units of the State Army.

In Mysore we have no Army Act as it i in British India controlling the qualificati for enrolment of men to the various branches of the Military Force. The Military Regulation 3 of 1899 deals only with the discipline applicable to Imperial Service Cavalry and Transport Corps. Unless the Crown Representative agrees to the increase of units in the State under Article 9 of the Treaty, there cannot be any extension of State Militia. Even after Retrocession we cannot raise an A.F.(I) unit with the persons referred to in Section 3 of the Auxiliary Force (India)Act. Every - European British subject and every subject of European descent in the male line and every person not being a British subject but possessing the conditions prescribed for persons of that class can be enlisted in A.F. (I). This means that persons who answer the above description but living in retroceded area can be enlisted in A.F.(I). They cannot be available for enrolment in Mysore and unless we have a law, we cannot enlist them even if they

do not enlist themselves in A.F.(I).

Even for the formation of a University Unit, Article 9 of the Treaty seems to apply. An Act similar to the Indian Territorial Force Act has to be enacted in Mysore to create a University Corps.

for Chief Secretary

Appendix F (G—1)

SUBJECT .....

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Diary No. of letter replied to.....

General and Revenue Secretariat

(,

the *193*

Date of issue 11-3-38

Signed by Mr. A.S.R.

Section

File No.

Serial No.

No. P5108

To

Dear Sir,

With reference to your D.O. letter no. G. 75/37-38 of 5-3-1938, asking for supply of a copy of the Army Act with the latest amendments, I am desired to state that an order has been placed for supply of the books. On receipt of the same, a copy will be sent to you promptly.

Yours sincerely,

9.3.

for 9.3.

To

The Private Secretary

H.H. The Ruler

—GPB—30.000—12-3-37

11th March 1938.

Dear Sir,

With reference to your D.O. letter No. G.75/37-38, dated 5th March 1938 asking for supply of a copy of the Army Act with the latest amendments, I am desired to state that a copy will be sent to you shortly.

Yours sincerely,

11.3

Sir Charles Todhunter, K.C.S.I.,
Private Secretary to His Highness the
Maharaja of Mysore.

Appendix I G—1]

SUBJECT .....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

13-4-36

Date of issue.....

Signed by .....

Section

File No.

Serial No.

No. P 5909

To

The Chief Commandant

Mysore State Troops.

Sir,

I am directed to request that the copy of up-to-date Indian Army List may kindly be sent to this office immediately. It will be returned in about a fortnight.

List of enclosures.....

Copied by .....

Examined by.....

D. No P 5733
Secret Book

14th April 38.

Dear Sir,

With reference to your D.O. No. G. 75 dated the 9th April 1938 to Mr. Kesavaiengar regarding the Indian Army Act, I am desired to send herewith a copy of the " Manual of Indian Military Law " 1937 which contains the Army Act for your reference. The book may kindly be arranged to be returned as early as possible, as it may be required by the Chief Commandant for his reference.

D.O. No. D.

General and Revenue Secretariat,

Bangalore, 14th April *1938.*

Dear Sir,

With reference to your D.O. No. G. 75 dated the 9th April 1938 to Mr. Kesavaiengar regarding the Indian Army Act, I am desired to ~~say that a copy was ordered from Delhi on the 9th March 1938 but it has not been received so far. I have, however, obtained~~ Send him the loan of a copy of the " Manual of Indian Military Law " 1937 which contain the Army Act ~~from the Chief Commandant's Office~~, for your reference. The book may kindly be arranged to be returned as early as possible, as it may be required by the Chief Commandant for his reference.

Yours sincerely,

Draft revised as instructed
for approval.
14-4

14.4

Sir Charles Todhunter, K.C.S.I.,
Private Secretary to His Highness
Maharaja of Mysore, Camp Ootacamund.

D. O. No. P 5786
Secret one book

GENERAL AND REVENUE SECRETARIAT,
18th April 1938.
Dated, Bangalore,.....

Dear Sir,

I am desired to send herewith for your reference a copy of the Indian Army Act received in the Secretariat Library today. The copy of the "Manual of Indian Military Law" sent with my D.O.letter No.P. 5733 dated 14th April 1938 may kindly be arranged to be returned.

Yours sincerely,

18.4

ir Charles Todhunter, K.C.S.I.,
Private Secretary to His Highness
the Maharaja of Mysore.

Appendix F G—1]

SUBJECT .....

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Section

File No.

Serial No.

Diary No. of letter replied to.....

D.O. No. P5786/Secr one book

To

Dear Sir,

I am desired to send
herewith for your reference
a copy of the Indian Army Act
received in the Secretariat
Library today. The copy
of the Manual of Indian
Military Law" sent with
my D.O. letter No. P5733 dt
14.4.38. may kindly be arranged
to be returned.

Yours sincerely
HP
16.4

General and Revenue Secretariat

( )

the *193*

Date of issue 18.4.38

Signed by Mr. A.S.R

List of enclosures.....

Copied by .....

Sir Charles Todhunter

P.S. to H.A. the Governor

Examined by.....

16.4.

WD 0521—GPB—30,000—12

6322/P 37

G.75/37-38
Book.

Awdry House, Fern Hill,
Nilgiris, 29th April 1938

Dear Mr. Sundararaja Rao,

With reference to the correspondence ending with your d.o. letter No.P.5786 of the 18th instant, I am writing to thank yo for the copy of the Indian Army Act and to return the copy of the Manual of Indian Military Law forwarded under cover of your d.o. letter No.P.5733 of the 14th instant.

From a study of these books, together with your note which accompanied the Chief Secretary's d.o. letter No.4920, dated the 25th February 1938, it seems to me that it would be practicabl for the A.F.(I) Units to become units of the Mysore Army, and for a University Corps to be enrolled if the following conditions were fulfilled.-

1. The Crown Representative should consent, under articl 9 of the Treaty, to an increase in the strength of the Mysore Army.

2. The A.F.(I) Units should be disbanded as such or the men in them should take their discharge, which they can do after four years' service or on attaining 45 years of age.

3. The Mysore Government should pass legislation on the lines of the Indian Territorial Force Act 1920, with suitable modifications, including a modification of Section 5 in so far as it provides that a European British Subject may not be enrolled in any corps or unit other than a University corps.

4. Suitable units of the Mysore Territorial Force should then be created.

I might note in passing that it is not intended by the above to suggest that a European British subject in Mysore should cease to be eligible to serve in the A.F.(I). He could still enlist in a corps in Madras if he preferred to do so. But if the majority of the corps preferred to come into a Mysore unit, then the above arrangements would admit of their doing so.

I shall be much obliged if you will kindly examine the

legal aspect of the case and let me know whether the fulfilment of the above conditions would meet all the legal difficulties involved.

I realize, of course, that sundry practical difficulties are likely to be raised, but I imagine that after Federation there will be an increasing tendency to put States and Provinces onto an equal footing and action on the lines I have above indicated would seem to be calculated in this case to produce that effect.

Yours sincerely,

G Fitzmaurice

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P6191/Reve one Book Dated, Bangalore, 4th May 1938

From

The Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Chief Commandant,
Mysore State Troops, Bangalore.

Sir,

I am directed to return herewith with thanks, the copy of the "Manual of Indian Military Law" received with your letter No.C1-1356/37-38 dated 13th April 1938. The receipt of the same may be kindly acknowledged.

I have the honor to be,

Sir,

Your most obedient servant,

For Chief Secretary to Govt.

Appendix F G—1

SUBJECT.....

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Section

File No.

Serial No.

Diary No. of letter replied to .....

No. P6191/Secretariat Branch

To The Chief Commandant,
Mysore State Troops,
Bangalore.

General and Revenue Secretariat

( )

the *193*

Date of issue 5-5-38

Signed by Mr. A.S.R.

Sir,

I am directed to request
with thanks
kindly forward two copies of the
"Manual of Indian Military
Law" received with your letter
No. C1-1356/37-38 of 13-4-1938.
The receipt of the same may be
kindly acknowledged.

I have the
honour to be,
Sir,
Your most obedient servant,
for Chief Secy.

List of enclosures.....

Copied by.....

Examined by.....

C. C. O. 1 (B)

0458 P 37

MYSORE STATE TROOPS.

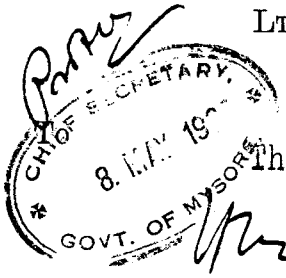
Tel. Address.
"STATROOPS"

OFFICE OF THE CHIEF COMMANDANT,

No. M.1356/37-38 *Bangalore, dated* 6.5.1938

FROM

LT.-COL. H. de. N. LUCAS,
Chief Commandant, Mysore State Troops,
Bangalore.



The Chief Secretary
to the Govt. of H.H. the Maharaja of Mysore,
Bangalore.

SIR,

I have the honor to acknowledge with thanks the receipt of the copy of the "Manual of Indian Military Law", returned with your letter No.P.6191 dated 5th May 1938.

I have the honor to be,
Sir,
Your most obedient servant,

M.V.
6-5-1938.

For Chief Commandant, 6.5.38
Mysore State Troops
(Absent from Head Quarters)

Dear Sir,

With reference to your D.O. letter No.G.75/37-38 dated the 29th April 1938 setting out some conditions and desiring to know whether the fulfilment of them would meet the legal difficulties involved in the matter of embodying the A.F.(i) units as part of the State Militia, I am enclosing herewith a brief note on the subject.

I regret very much the delay in replying to your letter and in sending the Note.

Yours sincerely,

KG
23

Sir Charles Todhunter, K.C.S.I.,
Private Secretary to His Highness
the Maharaja of Mysore,
Vasantha Mahal,
M Y S O R E.

A brief note on the conditions set out by Sir Charles Todhunter in his letter of 29th April 1938.

The four conditions mentioned in that letter as being necessary to be fulfilled to meet the legal requirements involved in the matter of embodying the A.F. (1) units as part of the State Militia are:

1. The consent of the Crown Representat under Article 9 of the Treaty to a increase in the strength of the Mysore Army.
2. The disbandment of the A.F. (1) uni or the discharge of such of the m as are eligible for the same.
3. Passing legislation similar to the Indian Territorial Force Act with suitable modifications.
4. Creation of suitable units of the Mysor Territorial Force.

The consent of the Crown Representative under Article 9 of the Treaty to an increase in the strength of the Mysore Army (the 1st condition in the letter) seems to be absolutely necessary before any further action can be taken in the matter.

The disbandment of the present A.F. (1) units (the 2nd condition in the letter) ca be done only by the Governor-General in Council under S.29 of the Auxiliary Force Act 1920 whi lays down that the Governor-General in Counci may constitute any corps or unit and may disband any corps or unit constituted under the Act. Discharge of such of the members as a eligible for the same will only be by efflux

time(S.17) and if any corps or unit is disbanded it will become unnecessary.

Legislation in British India has been in the form of two Acts, the Indian Territorial Force Act 1920 applicable to persons other than European British subjects and the Auxiliary Force Act 1920 applicable to European British subjects and others who may satisfy the conditions laid down for eligibilit

In Mysore, if the consent of the Crown Representative is obtained under Article 9 of the Treaty, there may not be any difficulty in passing an Act corresponding to the Indian Territorial Force Act. The constitution of a University Training Corps may also be provided for therein as in British India.

But the suggestion that a modification will have to be effected to include European subjects also may not be free from difficulty. Any act to be passed here in this connection will have to necessarily make provision for the punishment of offences under the Act and for disciplinary action against breaches of orders, rules and regulations that may have to be passed thereunder. Some of these offences will have to be tried by the Criminal ~~Law~~ Courts. S.22, 23, 25 and 27 of the Auxiliary Force Act 1920 contemplate such action by the Criminal Courts. An act of our Government cannot confer on our Courts such Plenary Criminal Jurisdiction over European British subjects as Article 16 of the

Treaty provides that Plenary Criminal jurisdiction can be exercised by the Government over European British subjects only to the extent delegated by the Governor-General in Council. The consent of an European British subject to subject himself to the jurisdiction of our Courts that may be deemed to be implied by his voluntary act of joining our units cannot be considered in law valid or good so as to give our Courts jurisdiction over him.

Two alternative remedies seem possible; either the appointment of officers by the Governor-General in Council for this purpose similar to the present system of appointment of Justices of the Peace, or the conferment on some of our Courts of jurisdiction over European British subjects at least for the limited purposes under the Act.

The former may be in the form of empowering the Justices of the Peace themselves to try such offences.

A brief note on the conditions set out by Sir Charles Todhunter in his letter of 29th April 1938.

The four conditions mentioned in that letter as being necessary to be fulfilled to meet the legal requirements involved in the matter of embodying the A.F. (1) units as part of the State Militia are :

1. The consent of the Crown Representative under Article 9 of the Treaty to an increase in the strength of the Mysore Army.
2. The disbandment of the A.F.(1) units or the discharge of such of the men as are eligible for the same.
3. Passing legislation similar to the Indian Territorial Force Act with suitable modifications.
4. Creation of suitable units of the Mysore Territorial Force.

The consent of the Crown Representative under icle 9 of the Treaty to an increase in the strength he Mysore Army (the 1st condition in the letter) os to be absolutely necessary before any further on can be taken in the matter.

The disbandment of the present A.F. (1) units 2nd condition in the letter) can be done only by the Governor-General in Council under S.29 of the

Auxiliary Force Act 1920 which lays down that the Governor General in Council may constitute any corps or unit and may disband any corps or unit constituted under the Act. Discharge of such of the members as are eligible for the same will only be by efflux of time (S.17) and if any corps or unit is disbanded it will become unnecessary.

Legislation in British India has been in the form of two Acts, the Indian Territorial Force Act 1920 applicable to persons other than European British subjects and the Auxiliary Force Act 1920 applicable to European British subjects and others who may satisfy the conditions laid down for eligibility.

In Mysore, if the consent of the Crown Representative is obtained under Article 9 of the Treaty, there may not be any difficulty in passing an Act corresponding to the Indian Territorial Force Act. The constitution of a University Training Corps may also be provided for therein as in British India.

But the suggestion that a modification will have to be effected to include European British subjects also may not be free from difficulty. Any Act to be passed here in this connection will have to necessarily make provision for the punishment of offences under the Act and for disciplinary action against breaches of orders, rules and regulations that may have to be

passed thereunder. Some of these offences will have to be tried by the Criminal Law. S.22, 23, 25 and 27 of the Auxiliary Force Act 1920 contemplate such action by the Criminal Courts. An Act of our Government cannot confer on our Courts such Plenary Criminal jurisdiction over European British subjects as Article 16 of the Treaty provides that Plenary Criminal jurisdiction can be exercised by the Government over European British subjects only to the extent delegated by the Governor-General in Council. The consent of an European British subject to subject himself to the jurisdiction of our Courts that may be deemed to be implied by his voluntary act of joining our units cannot be considered in law valid or good so as to give our Courts jurisdiction over him.

Two alternative remedies seem possible; either the appointment of officers by the Governor-General in Council for this purpose similar to the present system of appointment of Justices of the Peace, or the conferment on some of our Courts of jurisdiction over European British subjects at least for the limited purposes under the Act.

The former may be in the form of empowering the

Appendix F G—1]

SUBJECT.....

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Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue.....

Signed by .....

List of enclosures.....

Copied by .....

Examined by.....

Section

File No.

Serial No.

No.

To Dear Sir,

with reference to your d.o. letter no G 75/37-38. dated the 29th April 1938 setting out some Conditions and desiring to know whether the fulfilment of them would meet the legal difficulties involved in the matter of embodying the A.F. (1) units as part of the State Militia, I am enclosing herewith a brief note on the subject.

I regret very much the delay in replying to your letter and in sending the note.

Yours sincerely,

Sir Charles Todhunter KCSI
Private Secretary to His Highness
the Maharaja of Mysore

Vasantha Vihar
Mysore

WD 0278—GPB—30,000—4-3-38